

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

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SUSAN E. BREDTHAUER, *et al.*,

Plaintiffs,

v.

4:10CV3132

GILBERT G. LUNDSTROM, *et al.*,

Defendants,

and

RONALD A. LAIRD, *et al.*,

Plaintiffs,

v.

4:10CV3139

GILBERT G. LUNDSTROM, *et al.*,

Defendants,

and

SUSAN BARKER,

Plaintiff,

v.

**ORAL  
ARGUMENT  
REQUESTED**

SAMUEL P. BAIRD,

Defendant.

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08:10CV326

**DEFENDANT JOYCE POCRAS' MOTION TO DISMISS**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendant Joyce Pocras, by and through her undersigned counsel, respectfully submits this motion to dismiss with prejudice all claims Plaintiffs assert against her in these consolidated actions. In support of this motion, Ms. Pocras state as follows:

1. For all reasons set forth in the accompanying memorandum of law, Ms. Pocras is not a culpable ERISA investment fiduciary and therefore not a proper defendant in this action.

2. In connection with the filing of this motion, Ms. Pocras respectfully requests oral argument on this motion pursuant to L.R. 7.0.1(d). Ms. Pocras believes the Court will be aided by oral argument in light of the complexity of the legal issues presented in this consolidated action. Ms. Pocras estimates that oral argument on this motion could be completed in approximately one-half of one hour.

WHEREFORE, for the reasons set forth in the accompanying memorandum, the entire Complaint should be dismissed with prejudice.

Respectfully submitted,

Dated: November 15, 2010

By: s/ William C. O'Neil

Timothy J. Rivelli

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*Attorneys for Defendant Joyce Person Pocras*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on November 15, 2010, I caused a true and correct copy of the foregoing ***DEFENDANT JOYCE POCRAS' NOTICE OF MOTION AND MOTION TO DISMISS*** to be served on counsel of record via electronic filing through the Court's ECF system.

s/ William C. O'Neil

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WILLIAM C. O'NEIL